

REMARKS

Claims 1-4, 6-14 and 16-31 remain pending in the application.

The Applicants respectfully request that the Examiner reconsider earlier rejections in light of the following amendments and remarks. No new issues are raised nor is further search required as a result of the changes and remarks made herein. Entry of the Amendment is respectfully requested.

The Applicants respectfully request that the Examiner return an initialed copy of the IDS filed on December 16, 2008.

Claims 1-4, 6, 7-14, and 16-31 variously over Lohtia, Whittington, Degraeve, and Barr

In the Office Action, claims 1, 2, 10-12, 19-21, 23, 24, 26, 27, 29 and 30 were rejected under 35 U.S.C. §103(a) as allegedly being obvious over U.S. Pat. No. 6,560,456 to Lohtia et al. ("Lohtia") in view of U.S. Pat. No. 6,131,028 to Whittington ("Whittington"), and further in view of U.S. Application Pub. No. 2001/0049274 to Degraeve ("Degraeve"); claims 3, 4, 7-9, 13, 14, 17, 18, 22, 25, 28 and 31 were rejected under 35 U.S.C. §103(a) as allegedly being obvious over Lohtia in view of Whittington and Degraeve, and further in view of U.S. Pat. No. 6,456,852 to Bar et al. ("Bar"). The Applicants respectfully traverse the rejections.

The Applicants respectfully contend that the need for THREE references to reject claims 1, 2, 10-12, 19-21, 23, 24, 26, 27, 29 and 30 is an indication of the NON-obviousness of the claimed features.

Claims 1-4, 7-14 and 17-31 recite, *inter alia*, retrieval of a **location based message** associated with the **obtained current location and** selected using **the at least one auxiliary digit** suffixed to the end of the telephone number.

Thus, the claimed features require retrieving a **location based** message based on TWO elements: (1) an **obtained current location** and (2) **at least one auxiliary digit suffixed to the end of the telephone number before transmission of the telephone number**.

The Examiner acknowledged that Whittington and Lohtia fail to teach digits affixed by a subscriber to the end of a telephone number before

transmission of the telephone number. (see Office Action, page 7) But, Applicants **ALSO** claim what those digits affixed by a subscriber to the end of a telephone number before transmission of the telephone number are **associated with**. Applicants' claims REQUIRE retrieval of a **location based message** associated with an obtained current location **and** selected using **the at least one auxiliary digit suffixed to the end of the telephone number**. As discussed in more detail below, neither Whittington, Lohtia and Degraeve, either alone or in combination, disclose, teach or suggest such a **location based** message that is both associated with a **current location** of a subscriber device **AND** selected using at least one auxiliary digit suffixed to an end of a telephone number, as claimed.

The Examiner cites Degraeve to allegedly disclose digits affixed by a subscriber to an end of a telephone number before transmission of the telephone number at paragraph 0079. (see Office Action, page 5) This passage of Degraeve reads:

[0079] The subscriber may also provide the possibility for the recipient to select which data he wishes to receive. Preferably, this selection consists of a number of pages of a single web site, which contains the totality of the information the owner puts at the recipient's disposal. By entering a number of digits after the number, the recipient may then select the data. For example, if the number made public next to a house of sale is +32476253698 and the recipient wishes to receive page 23, he should call +32476253698*23. Of course, the owner must provide with the number to call, the contents and the number associated with each page.

Degraeve teaches a number added to a phone number for "selection ... of a **number of pages of a single web site**". Degraeve's web site is unrelated to a location of a subscriber device. Degraeve's fails to teach or suggest that his number is used to retrieve a **location based** message, much less teach or suggest a **location based** message that is both associated with a **current location** of a subscriber device **AND** selected using at least one auxiliary digit suffixed to an end of a telephone number. A prior art reference must be considered in its **entirety**, i.e., as a **whole**. **MPEP §2141.02 (citing W.L. Gore & Assoc. v. Garlock, Inc., 220 USPQ 303 (Fed. Cir. 1983), cert. denied, 469**

U.S. 851 (1984)). Degraeve, and the Examiner's other cited references, considered as a whole fail to disclose, teach or suggest a **location based** message that is both associated with a current location of a subscriber device AND selected using at least one auxiliary digit suffixed to an end of a telephone number, as recited by claims 1-4, 7-14 and 17-31.

The Examiner alleges at page 6 of the Office Action that Lohtia teaches "using a location based service to obtain a location of the subscriber (Col. 2 line 40, Col. 4 Line 32, and Col. 5 line 30)". These passages of Lohtia read:

Users can select services such as stock quotations, location information, daily schedule, movie theatre or entertainment preferences, etc." (Col. 2, lines 40-42)(emphasis added)

The information and services available to the subscribers include stock quotations, weather information, personal schedules, user location services, movie theatre preferences, or any other information that the user may require. (Col. 4, lines 30-34)

A called party or destination number corresponding to "800 WEATHER" in this example may indicate that the user is requesting weather information, such as forecasts or observations for either a current location or a preselected location indicated in the user's service information PROFILE. (Col. 5, lines 27-32)

From these passages, Lohtia is clear that a user may select location information, just like a stock quotation, but at best information such as weather is provided based on a location in the user's service information profile. Thus, Lohtia teaches use of a pre-designated location value set by a user and retrieved from a user established profile. Lohtia fails to teach or suggest a message that is based on a current location of a subscriber device. Moreover, Lohtia's user selecting a menu option is NOT an automatically obtained current location of a subscriber device as claimed. Lohtia fails to teach or suggest a location based message that is both associated with a current location of a

subscriber device AND selected using at least one auxiliary digit suffixed to an end of a telephone number, as recited by claims 1-4, 7-14 and 17-31.

For this additional reason, claims 1-4, 7-14 and 17-31 are patentable over the prior art of record.

The Examiner alleges at page 6 of the Office Action that Lohtia teaches "retrieving a message relating to said location based on requested information, and transmitting said retrieved message in a short message to said subscriber" (Col. 3, lines 35-42; Col. 4, lines 48-50; Col. 5, lines 56-59; and Col. 5, line 66 to Col. 6, line 5)(emphasis added) These passages of Lohtia read:

An additional feature of the invention provides for reformatting information gathered in response to a subscriber-generated trigger. The reformatted information is adapted for the subscriber's handset display and is routed to the SMS or microbrowser server of the subscriber's wireless carrier. Alternatively, the SMS message is sent to an email gateway at the wireless carrier's location. (Col. 3, lines 35-42)

Once the users have configured their service information profiles, the requested information may be provided over the SMS whenever requested by the user. (Col. 4, lines 48-50)

Global SCP 15 obtains the requested information and then sends an SMS or microbrowser message containing the requested information to message center 16 for the wireless network. (Col. 5, lines 56-59)

In another embodiment, the Global SCP may complete the call and ask the user to enter a password or any other information. The Global SCP then asks the user to enter the trigger digits, feature code or SMS origination message. The Global SCP then sends the information to the Distributed WWIS Server. The Distributed WWIS server determines the service requested by the user. The information is then sent to the user via an SMS or microbrowser message. (emphasis added)

At best, Lohtia transmits a REQUESTED message-NOT a message relating to an obtained current location, as required by all pending claims 1-4, 7-14 and 17-31.

With respect to the secondary references cited by the Examiner, the Examiner cites Whittington for allegedly disclosing a "location-based service to obtain a location of the subscriber is a wireless service (abstract, columns 2-5) and a telephone number initiating said telephone call including at least one auxiliary digit (feature code) beyond those associated with the information telephone call (column 3 lines 22-35 and column 4 lines 53-65); retrieving a message relating to said location based on requested information associated with said at least one auxiliary digit (i.e., a feature code can be used to obtain directions to the nearest gas station)(column 3 lines 22-35 and column 4 lines 53-65)." (see Office Action, pages 6 and 7)

Whittington appears to teach, at best, the use of a **PRE-fix**, i.e., a **feature code** to specify a location based service. Whittington details that his **PREfix "feature code is a specified sequence of digits following an ASTERISK (*)**. (Col. 3, lines 22-23) The HLR sends a **feature request** to location based call forwarding service, which processes the **PREfix feature request** and sends a location query. (Whittington, col. 3, lines 37-47)

Whittington's **PREfix** **MUST** be entered **BEFORE** or in **FRONT** of the telephone number, **NOT** **SUF**fixed to an end of an information telephone number, as required by claims 1-4, 6, 7-14, and 16-31. This is an important distinction as it affects direction of the phone call in the first place. Whittington identifies the **PREfix feature code** as a telephone call in and of itself, and sends an appropriate origination request to the HLR 19. Whittington fails to disclose, teach or suggest an auxiliary digit **SUFfixed** to an end of a telephone number as recited by claims 1-4, 7-14 and 17-31.

Barr is relied on to allegedly teach an information number being dialed is "4-1-1" at col. 3, line 15. (see Office Action, page 8) A thorough reading reveals that Barr fails to teach auxiliary digits **SUFfixed** to an information telephone number, much less a **location based** message that is associated with **TWO** types of data, i.e., at least one auxiliary digit suffixed to an end of a telephone number **and** a **current location** of a subscriber device, as required by claims 1-4, 7-14 and 17-31.

Lohtia, Whittington, Degraeve and Barr, either alone or in any combination thereof, fail disclose, teach or suggest the important claimed combination of elements defined by claims 1-4, 6-14 and 16-31, in particular a **location based** message that is both associated with a current location of a subscriber device AND selected using at least one auxiliary digit suffixed to an end of a telephone number, as recited by claims 1-4, 7-14 and 17-31.

Accordingly, for at least all the above reasons, claims 1-4, 7-14 and 17-31 are patentable over the prior art of record. It is therefore respectfully requested that the rejection be withdrawn.

Claims 6 and 16 over Lohtia, Whittington, Degraeve and Hines

In the Office Action, claims 6 and 16 were rejected under 35 U.S.C. §103(a) as allegedly being obvious over Lohtia in view of Whittington and Degraeve, and further in view of U.S. Publication No. 2004/0203922 to Hines ("Hines"). The Applicants respectfully traverse the rejections.

Claims 6 and 16 are dependent upon claims 1 and 11 respectively, and are allowable for at least the same reasons as claims 1 and 11.

Claims 6 and 16 recite, *inter alia*, retrieval of a **location based message** associated with the **obtained current location and** selected using the at least one auxiliary digit suffixed to the end of the telephone number. As discussed above, Lohtia, Whittington and Degraeve, either alone or in combination, fail to disclose, teach or suggest such features.

The basis of a reference to qualify as prior art is rooted in 35 U.S.C. §102. 35 U.S.C. §102(e) reads:

(e) the invention was described in - (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for the purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language (emphasis added)

Hines does not qualify as "another" as this application and Hines were co-owned at the time of the invention. As the rejection of claims 6 and 16 cannot stand on Lohtia, Whittington and Degraeve alone, the Applicants respectfully request that the rejection of claims 6 and 16 be withdrawn.

Accordingly, for at least all the above reasons, claims 6 and 16 are patentable over the prior art of record. It is therefore respectfully requested that the rejection be withdrawn.

Conclusion

All objections and rejections having been addressed, it is respectfully submitted that the subject application is in condition for allowance and a Notice to that effect is earnestly solicited.

Respectfully submitted,



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